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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/598,907	04/03/2007	Gerhard Brendel	LAN15 P-303	1880

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EXAMINER
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MILLER, MICHAEL G

ART UNIT	PAPER NUMBER
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1712

MAIL DATE	DELIVERY MODE
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01/18/2011

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.



<b>Office Action Summary</b>	<b>Application No.</b> 10/598,907	<b>Applicant(s)</b> BRENDL, GERHARD	
	<b>Examiner</b> MICHAEL G. MILLER	<b>Art Unit</b> 1712	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 29 October 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 11-16 and 21-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11-16 and 21-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>DEC 2007, FEB 2008</u>  | 6) <input type="checkbox"/> Other: _____                          |



**DETAILED ACTION**

***Election/Restrictions***

1. Applicant's election of Claims 11-16 and 21-24 in the reply filed on 29 OCT 2010 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

***Response to Amendment***

2. Examiner notes the amendment filed 29 OCT 2010. As a result of the amendment:

- a. Claims 11-16 and 21-24 are pending.
- b. Claims 1-10 and 17-20 are cancelled.
- c. Claims 21-24 are new.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 11-15 and 21-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Colmant (GB 455,408, hereinafter '408).
5. Claim 11 – '408 teaches a method for coating substrates with at least one coating material comprising at least one organic component and applying the coating



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material to the substrate by atomization and spraying, wherein the coating material is atomized by water vapor (Claims 1 and 2, Page 2 Lines 59-76).

6. Claim 12 – The bituminous substance applied as described is a paint insofar as it is a substance used for decorating or protecting a surface, and it is essentially solvent-free and requires high heat to melt.

7. Claim 13 – Page 1 Lines 9 – 17 teach applying the bituminous substance as a protective coating, which implies that it is applied as at least a top coat.

8. Claim 14 – As discussed in Claims 1 and 2 of '408, the material is atomized with assistance from water vapor.

9. Claim 15 – Page 1 Lines 85-89 teach spraying at 5-6 atmospheres., which is roughly 5-6 bar.

10. Claim 21 – The nozzle arrangement is discussed at Page 2 Lines 59-76. The bitumen tank is discussed at Page 2 Lines 83-90. The water-vapor generation device is inherent from Page 1 Line 104 - Page 2 Line 11, wherein the auxiliary gas is water vapor.

11. Claim 22 – A pressure-increasing device is inherent as discussed in Claim 15, as the bitumen is sprayed at pressures far above 1 atmosphere.

12. Claim 23 – The feed line for a system comprises every part of the system which handles the material to be passed through the system. In this case, the feed line for the bitumen comprises the bitumen storage tank, the piping connecting the storage tank to the nozzle, and the nozzle. There has to be a change in feed line diameter between the top of the bitumen storage tank and the nozzle; otherwise there is no distinction



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between the bitumen storage tank and the piping connecting it to the nozzle. Therefore, there is a reduction in cross-section in the feed line. Page 2 Lines 37-58 discuss the changes of shape in the piping and notes that they do in fact cause pressure changes. It is noted in particular at Lines 54-58 that the prior art does not discourage all pressure changes, merely sudden and abrupt ones.

13. Claim 24 – This is inherent, as the natural state of water at atmospheric conditions is liquid. For steam to be produced, heat or pressure must be applied to the liquid.

***Claim Rejections - 35 USC § 103***

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

16. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over '408..

17. Claim 16 – Page 1 Lines 8 – 17 teach applying the bituminous substance as a coating to constructions in modern building practice. Examiner takes official notice of



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the fact that metal and wood were common building materials at the time '408 was published and that metal, plastic and wood were common building materials at the time the invention was made.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL G. MILLER whose telephone number is (571)270-1861. The examiner can normally be reached on M-F 9-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Cleveland can be reached on (571) 272-1418. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael G. Miller/



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Examiner, Art Unit 1712

/Timothy H Meeks/

Supervisory Patent Examiner, Art Unit 1715